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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

THEODURUS STROUS,
DERIVATIVELY ON BEHALF OF SCIO
DIAMOND TECHNOLOGY CORP.,

Plaintiff,

v.

BERNARD MCPHEELY, KARL
LEAVERTON, GERALD MCGUIRE,
LEWIS SMOAK, ADAMAS ONE CORP.
and JOHN G. GRDINA,

Defendants,

and

SCIO DIAMOND TECHNOLOGY
CORP.,

Nominal Defendant.

Case No. 22-cv-00256-JCM-EJY

**STIPULATION FOR LEAVE TO
AMEND COMPLAINT AND EXTEND
DEFENDANTS' TIME TO RESPOND
TO PLAINTIFF'S SECOND
AMENDED COMPLAINT**

Defendants Bernard McPheely, Karl Leaverton, Gerald McGuire, Lewis Smoak, Adamas One Corp., and John Grdina and Plaintiff Theodurus Strous, by and through their respective counsel, through their undersigned counsel, stipulate to the filing of Plaintiff's Second Amended Complaint under Fed. R. Civ. P. 15(a)(2) and further hereby request under

1 Fed. R. Civ. P. 6(b)(1)(A), that the Court set the time for Defendants to answer or otherwise
2 respond to Plaintiff's Amended Complaint. The following is a summary of events to date:

3 On February 10, 2022, Plaintiff filed the Complaint against Defendants Bernard
4 McPheely, Karl Leaverton, Gerald McGuire, and Lewis Smoak.

5 On September 30, 2022, Plaintiff Theodurus Strous filed the Amended Complaint
6 against Defendants Bernard McPheely, Karl Leaverton, Gerald McGuire, and Lewis Smoak,
7 and added two additional Defendants: Adamas One Corporation and John G. Grdina.

8 On October 6, 2022, Plaintiff Theodurus Strous served the Summons and Amended
9 Complaint on Adamas One Corporation.

10 On October 25, 2022, Plaintiff Theodurus Strous served the Amended Complaint on
11 Defendants Bernard McPheely, Karl Leaverton, Gerald McGuire, and Lewis Smoak.

12 With approval from Plaintiff, no defendant has filed an answer or otherwise
13 responded to Plaintiff's Amended Complaint, the presently operative pleading.

14 On November 15, 2022 the Court granted Defendants' Stipulation to Extend
15 Defendants' time to Respond to Plaintiff's Amended Complaint.

16 Plaintiff subsequently learned facts that are contrary to the Amended Complaint that
17 Plaintiff needs to modify and revise.

18 Plaintiff and Defendants have agreed to give Plaintiff until **January 20, 2023** to file
19 a Second Amended Complaint.

20 Plaintiff and Defendants Bernard McPheely, Karl Leaverton, Gerald McGuire, Lewis
21 Smoak, Adamas One Corp., and John Grdina have agreed to extend the time for Defendants
22 to answer or otherwise respond to Plaintiff's Second Amended Complaint as follows:

23 a. Defendants shall file an answer or otherwise respond to
24 Plaintiff's Amended Complaint by **Thursday, February 17,**
25 **2023.**

26 b. Plaintiff shall file its opposition to any motion(s) to dismiss
27 filed by Defendants by **Thursday, April 6, 2023.**

1 c. Defendants shall file any replies in support of motion(s) to
2 dismiss by **Thursday, May 11, 2023.**

3 Good cause exists for the proposed extension, as set forth below:

4 1. Plaintiff has agreed, as a professional courtesy, to allow Defendants' counsel
5 additional time to review the case with Defendants, investigate the allegations, and prepare
6 a response to the Second Amended Complaint.

7 2. Defendants' counsel for Adamas One Corp., and John Grdina was just retained
8 and needs time to investigate the allegations.

9 3. The claims in the Second Amended Complaint are complex and require time
10 to conduct a thorough investigation into the facts and the law in order to prepare an initial
11 pleading. And Plaintiff will have to respond to two separate motions to dismiss.

12 4. The Parties do not believe that this extension, if granted, will unreasonably
13 delay this case and that the extension will serve to preserve the court's and the parties'
14 resources and advance judicial economy under the circumstances present in this litigation.

15 5. Neither Plaintiff nor Defendants will be prejudiced by the stipulation.

16 **Therefore**, the Parties jointly request that the Court extend Defendants' period of
17 time to answer or otherwise respond to Plaintiff's Second Amended Complaint as follows:

18 1. The time within which Defendants may answer, move, or
19 otherwise respond to the forthcoming Second Amended
20 Complaint is hereby extended through and including
21 **Thursday, February 17, 2023.**

22 2. Plaintiff shall file its opposition to any motion(s) to dismiss
23 filed by Defendants by **Thursday, April 6, 2023.**

24 3. Defendants shall file any replies in support of motion(s) to
25 dismiss by **Thursday, May 11, 2023.**

26 4. All rights are reserved with regards to any further requests
27 for extensions of deadlines. This schedule can be modified
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by further written agreement of the parties or order of the court.

5. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated this 6th day of January, 2023.

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Corp., and John Grdina*

ORDER

Per the parties' stipulation, **IT IS SO ORDERED.**

1. Plaintiff has until **January 20, 2023** to file the Second Amended Complaint.
2. The time within which Defendants may answer, move, or otherwise respond to the Amended Complaint is hereby extended through and including **Thursday, February 17, 2023.**
3. Plaintiff shall file its opposition to any motion(s) to dismiss filed by Defendants by **Thursday, April 6, 2023.**
4. Defendants shall file any replies in support of motion(s) to dismiss by **Thursday, May 11, 2023.**
5. All rights are reserved with regards to any further requests for extensions of deadlines. This schedule can be modified by further written agreement of the parties or order of the court.
6. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.


THE HONORABLE ELAYNA J. YOUCHAK
U.S. MAGISTRATE JUDGE

Date: January 9, 2023